2012/2013
Report of the LEGAL SERVICES BOARD OF THE NWT

Photo taken by: Charles Davison, Defence Counsel

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THE BOARD OF DIRECTORS

Board Members

The Minister of Justice appoints members of the Board of Directors under section 3 of the *Legal Services Act*. The *Act* provides for representation on both a regional and interest basis. By convention the various regions are represented on the Board. In accordance with that section, the 2012/13 Board was composed of the following:

Louis Sebert	Chair, representing the Law Society
Giselle Marion	Representing the Tłı̨chǫ and North Slave communities
Mark Aitken	Representing the Public Service
Ron Holtorf	Representing the Akaitcho
Roberta Hamilton	Representing the South Slave

Mandate of the Board of Directors

The Board sets policy, makes recommendations to the Minister with respect to the hiring of the Executive Director, administers legal aid clinics, maintains a panel of private lawyers for eligible clients for criminal, family, and civil matters, and hears appeals in cases where legal aid has been denied or lawyers feel their accounts have been reduced without justification. Additional powers are prescribed under section 11 of the *Legal Services Act*.

LEGAL SERVICES BOARD

The Government of the Northwest Territories has been responsible for providing legal aid since 1971. The Legal Services Board was established and given responsibility for providing legal aid, court worker services and public legal education and information services throughout the Northwest Territories.

Today, the Board operates four legal aid clinics; three clinics, two in Yellowknife and one in Inuvik, provide both family and criminal law services and a second clinic in Yellowknife provides family, criminal and legal aid outreach services. The clinics serve clients in all the communities in the NWT.

The Legal Services Board is established as a corporation by the *Legal Services Act*. The Board reports to the Minister of Justice and is a public agency listed in Schedule A to the *Financial Administration Act*. All Board employees are members of the GNWT Public Service.

Legislative Objectives

The objects of the Board are set out in section 7 of the *Legal Services Act*:

1. To ensure the provision of legal services to all eligible persons;

2. To ensure that the legal services provided and the various systems for providing those services are the best that circumstances permit; and

3. To develop and co-ordinate territorial or local programs aimed at:
   (a) reducing and preventing the occurrence of legal problems, and
   (b) increasing knowledge of the law, legal processes and the administration of justice.

Board Meetings

The Legal Services Board met in 2012 and 2013 in Yellowknife on February 22, 2012, and October 16, 2012 and in Hay River for two days from April 17-18, 2013.

Legal Aid Act

The *Legal Aid Act* was passed on November 6, 2012 and will come into force in the near future. It will replace the existing outdated *Legal Services Act*. Over the last 30 years, the legal aid system overseen by the Board has changed, but the governing legislation has not been updated to reflect these modernizations. The new *Legal Aid Act* will bring the legislation in line with the way legal aid is delivered in the Northwest Territories.

ORGANIZATIONAL STRUCTURE

The following organization chart reflects the structure of the Legal Services Board as at March 31, 2013.

COURT WORKER PROGRAM

In the Northwest Territories, court workers help people who come into contact with the justice system. Their primary duty is to help clients apply for legal aid and ensure that applications and supporting documentation are provided to the Legal Aid office. Court workers also provide general information and referrals to services inside and outside the justice system. They are an important liaison between clients and lawyers and the justice system - particularly in more remote communities which do not have the benefit of resident lawyers and where justice is primarily accessed through the court circuit system.

Some court workers may also represent individuals without a lawyer in Justice of the Peace Court. They generally provide assistance with guilty pleas, the resulting sentencing hearings and occasionally with simple trials. They also assist legal counsel in Territorial Court and Youth Justice Court by ensuring clients and witnesses attend court, helping with translation and communication, gathering information, and interviewing clients. On occasion court workers may help a client with a guilty plea and sentencing in Territorial Court.

Court workers also play a direct role in public legal education through their daily contact with clients, providing information and guidance with respect to the court system and through their referral to other services. Court workers provide legal education through their work with school classes and community justice committees, and promote the legal aid program by attending at community career fairs, placing public announcements on the radio and providing information at seminars and programs in their communities. Some court workers also sit on community inter-agency committees.

The Legal Services Board has seven court worker positions. Six of those are located in communities outside Yellowknife and provide services in all regions of the NWT. All are GNWT employees and members of the public service. The Aboriginal Court Worker Program has had Federal financial support since 1978.

The court workers attended a two day training session in Yellowknife on February 14-15, 2013. The session was developed and delivered by Legal Aid staff.

In 2012/13 Justice Canada released the results of the 2011 Northwest Territories Client Survey. This survey of clients of the Aboriginal Courtwork program showed that all clients were either satisfied or very satisfied with the information they received from the court worker. The survey also showed that 84 per cent of court

worker clients were referred to legal services, and that 95 per cent of those clients had legal representation in Court, which reflects the breadth of coverage available through the legal aid program.

LEGAL AID OUTREACH PROGRAM

In 2012-13 this program continued to expand, with the legal aid outreach lawyer traveling with the circuit court to have in person community visits. Due to the busy and highly focused nature of circuit courts the lawyer, with the assistance of the regional court worker, began travelling to communities when there was no court. Coordinating with regional court workers who assist with advance advertising and client contact, the program continues to experience a high level of interest and attendance at sessions. By the end of the year the lawyer had visited every community except for Kakisa, Colville Lake and Tsiigehtchic.

It has become clear from the outreach lawyer's experience and feedback from clients that there is a need for assistance with wills in the communities. This is not a service that is available to most in smaller communities, and as people resolve residential school claims they are asking for more certainty and control in the ultimate dispersal of those funds. As a result, the Board has established a wills project within the legal aid outreach program. The lawyer has travelled to a number of communities and given presentations on wills. These have in some cases been coordinated with the assistance of the local band councils, which have covered some travel costs for the lawyer. Wills have been drawn up for formal execution within the communities. The feedback on this project has been very positive and the demand is steady.

The legal aid outreach program itself is very popular, and the weekly clinic in Yellowknife is consistently well subscribed. The demand from communities for "in person" clinics continue, and is being met with regular travel to communities to meet with clients. The outreach lawyer is able to provide a broad range of services, referrals and assistance to clients throughout the jurisdiction. This program has been run as a pilot project, drawing on existing staff and operational resources of the legal aid program. Longer term plans would have the Board hiring a second lawyer to assist in the expansion and delivery of the program.

PUBLIC LEGAL EDUCATION & INFORMATION

The Legal Services Board is responsible for public legal education and information ("PLEI") in the Northwest Territories. Public legal information is disseminated by both formal and informal means. Several products were updated during 2012/13, including the "Family Law In the NWT" brochure. The legal aid outreach program has continued to expand, and has allowed that lawyer to deliver public legal

education sessions in conjunction with community visits and the weekly clinic in Yellowknife. Staff lawyers and court workers also provide formal and informal sessions in Yellowknife and the communities.

LEGAL AID COVERAGE

Youth Applications – *Youth Criminal Justice Act (Canada), Youth Justice Act (NWT)*

Legal services are generally provided to financially eligible youth who are charged with offences under the *Criminal Code* and are required to make an appearance before a Youth Justice Court Judge, or if a matter is subsequently brought before the NWT Supreme Court or the Court of Appeal. The Board does assess family income when looking at eligibility.

Legal aid coverage is not provided for youth for criminal or other statutory offences where the matter(s) are proceeding by way of summary conviction, unless:

1. There is a reasonable possibility that upon conviction, the youth may be incarcerated by way of open or secure custody;

2. There is a reasonable possibility that upon conviction, the youth's livelihood may be prejudiced; or

3. The Executive Director considers that special circumstances apply.

Adult Applications – *Criminal Code*

Although an applicant may be financially eligible for legal aid, the Board or Executive Director can refuse to provide legal aid coverage for certain offences in accordance with the discretion extended by the *Legal Services Act* and the regulations under the Act.

Presumed Eligibility

Presumed eligibility arises only in the context of criminal law. Clients who first appear in Territorial court are presumed eligible for legal aid, and are provided assistance with preliminary or straightforward matters that duty counsel can deal with in a summary fashion. This includes guilty pleas and non-complex sentencing hearings. If the lawyer determines that the matter requires a preliminary inquiry, trial or a more complex sentencing, the client is told to apply for legal aid to have a lawyer appointed.

Civil Applications

The *Legal Services Act* authorizes the provision of legal aid services on a discretionary basis for some civil matters. The Act and regulations specify that certain civil cases are not covered, and the Executive Director may refuse to authorize legal aid if the civil case is of the type where a lawyer would ordinarily agree to act on a contingency basis.

Examples of civil related matters that have received legal aid coverage: workers' compensation appeals, residential tenancy appeals, and certain wrongful dismissal cases.

Family Law Applications

Legal aid is generally provided to financially eligible applicants in matters involving family breakdowns when there are issues relating to children, spousal support, family violence, and in matters relating to child protection.

After a client completes an application for legal aid assistance involving a family law matter, a request for a legal opinion is made to one of the staff lawyers or to a member of the family law panel. The lawyer advises the Legal Services Board on the merits of the matter. If the opinion is that there is no merit in proceeding, the applicant will receive a "Notice of Denial of Legal Aid" and an explanation of the reasons for the denial.

Approved matters are usually assigned according to the date of application. An exception is made, and matters are given priority in assignment, when the client is facing a court date, if the matter involves family violence, or if the client is facing child protection proceedings.

Residency and Reciprocity

A person who is not ordinarily resident in Canada is not eligible for legal aid coverage except in relation to charges under two federal Acts.

The Legal Services Board of the NWT is a participant in the Inter-Provincial Reciprocity Agreement that allows legal aid coverage to be extended to applicants from any jurisdiction who require assistance with a civil or family matter arising in another Canadian jurisdiction. The costs of providing the service are borne by the legal aid plan in the jurisdiction where the matter is to be heard. The NWT program uses this service in the family law area.

FINANCIAL ELIGIBILITY

Legal Aid Applications

People must complete an application to receive legal aid. The Board uses standard forms and court workers take the applications in person or by telephone. Applicants are usually required to provide detailed financial information with backup documents. This information includes a statement of income for the applicant and anyone living in the household plus a detailed statement of expenses, liabilities, debts and assets. This information is used to determine an individual's eligibility for legal aid.

Board employees review applications in detail to determine the applicant's financial eligibility. Eligible applicants are assigned duty counsel for criminal matters or go into a rotational assignment process for family and civil law matters. Applicants who are not financially eligible are sent a notice of denial. All applicants can appeal a denial first to the Executive Director and then to the Legal Services Board.

In some cases, using criteria set out in the Act and regulations, the staff may determine that an applicant can make a contribution to the cost of their legal aid services. A conditional authorization for legal aid is given to the applicant requiring a contribution in order to receive legal aid. Usually applicants have a set time period to make their contributions. Some applicants are assessed a contribution to be paid on the completion of their file, if it is expected there will be a financial gain for the client at that time. In cases involving property division, applicants may be subject to a full recovery of fees and disbursements incurred on their behalf.

Contributions and recoveries are deposited into the Government of the NWT Consolidated Revenue Fund, and are not used to directly offset the cost of legal aid.

Financial Eligibility for Youth, Minors and Infant Children

In determining the legal aid eligibility of a youth, as defined by the *Youth Criminal Justice Act* (Canada), (at least 12 years of age but less than 18 years of age), or a minor, within the meaning of the *Age of Majority Act,* the Legal Services Board must consider the financial eligibility criteria of the youth's parents or guardians. The Board does exercise discretion when making a determination. For example, if a youth or minor's interests conflict with that of the parent(s), then the Board will provide legal aid services even if the youth may not be financially eligible.

LEGAL AID ASSIGNMENTS

Panels

The *Legal Services Act* requires that work be assigned to members of the Panel in rotation on a fair and equitable basis. The Executive Director assigns approved applicants a lawyer from the Legal Aid Panel. Lawyers located in communities other than Yellowknife get priority for legal aid assignments in their community and the surrounding area for reasons of economic efficiency and to support the local bar.

Choice of Counsel

Applicants do not have the right to choose a lawyer unless they are charged with offences for which the maximum penalty, upon conviction, is life imprisonment. However, there is no choice of counsel where an applicant is charged with break and enter under the *Criminal Code* or a trafficking offence under the *Controlled Drugs & Substances Act* (CDSA) where life imprisonment is the maximum sentence. An approved applicant who has choice of counsel may choose any lawyer resident in the Northwest Territories who is on the panel and willing and able to take the case.

Circuit Counsel

The *Legal Services Act* requires that the Board arrange to have at least one lawyer (circuit counsel) accompany the Supreme Court and Territorial Court on all circuits where a lawyer may be required for the delivery of legal aid. Applicants for such services are subject to the same criteria as all other applicants who need legal services.

LEGAL SERVICES CLINICS

The Board has 15 staff lawyer positions: seven criminal lawyers and eight family lawyers. On March 31, 2013, six criminal and six family positions were staffed.

Yellowknife Legal Aid Clinic

The Yellowknife Legal Aid Clinic was staffed by 2012/13 year end with three criminal lawyers, one family lawyer and one legal secretary. The staff lawyers provide services throughout the NWT.

Beaufort Delta Legal Aid Clinic

The Beaufort Delta Legal Aid Clinic operates in Inuvik and provides services to all communities in the region. In 2012/13 it was staffed with one family lawyer and one legal secretary. Criminal law services in the region were provided for all circuits by travelling defence counsel.

Community Legal Aid Clinic

Formerly known as the Family Law Clinic in Yellowknife, this office was staffed, by 2012/13 year end, with one family lawyer, one legal aid outreach/family lawyer, one criminal lawyer and one legal secretary. The staff lawyers provide services to clients throughout the NWT.

Somba K'e Legal Aid Clinic

This office was staffed in 2012/13 with two criminal lawyers, two family lawyers and one legal secretary. The staff lawyers provide services to clients throughout the NWT.

APPEALS

Some decisions made by the Executive Director may be subject to an appeal to the Board. If an applicant is assessed a contribution or denied legal aid, the applicant may appeal the decision by providing written notice of his/her intention to appeal, and the Executive Director shall then bring the matter before the Board for an appeal hearing.

Lawyers also have the right to appeal the Executive Director's taxation of an account. Written notice is required, and the Executive Director will then bring the matter to the Board for an appeal hearing. There is no further right of appeal from the Board's decision.

There were four eligibility appeals and no taxation appeals before the Board in 2012/13. The four eligibility appeals were dismissed.

ADMINISTRATION AND FINANCE

Funding for the Legal Services Board

The Legislative Assembly allocates money to the Legal Services Board to administer the *Legal Services Act* and provide legal services and other programs under the Act. The GNWT receives funding for the Legal Aid Program, Aboriginal court workers, and public legal education through the Access to Justice Agreement with the Government of Canada. Federal funding has been fixed at $1,972,327 since 2006/07. Canada has provided additional funding for several time limited special projects since 2006/07.

Personnel

The staff of the Legal Services Board are appointed and employed under the *Public Service Act* and are employees of the GNWT Department of Justice. The Department of Human Resources provides human resources support to the Board.

Financial Services

Financial services are provided by the Department of Justice. Since the Board does not hold separate funds, it is audited in conjunction with the Department of Justice. A separate annual independent audit is completed for compliance with the Access to Justice Agreement with Canada.

LEGAL AID TARIFF

Experience	Hourly Rates ($)	Daily Rates ($)
Student at law	53	307
Less than 4 years	81	465
4-6 years	93	576
7-10 years	114	681
11 & more years	135	805

The rates are the same regardless of the level of court for which legal aid services are provided.

STAFF LAWYER SALARIES

Staff lawyers, as GNWT employees, are paid according to the pay scales established for GNWT legal counsel. These rates are based on legal experience and were as follows for 2012-2013:

Legal Counsel I	88,959 – 106,197
Legal Counsel II	97,325 - 116,001
Legal Counsel III	106,567 – 127,218
Legal Counsel IV	116,552 – 139,133
Legal Counsel V	121,895 – 145,529

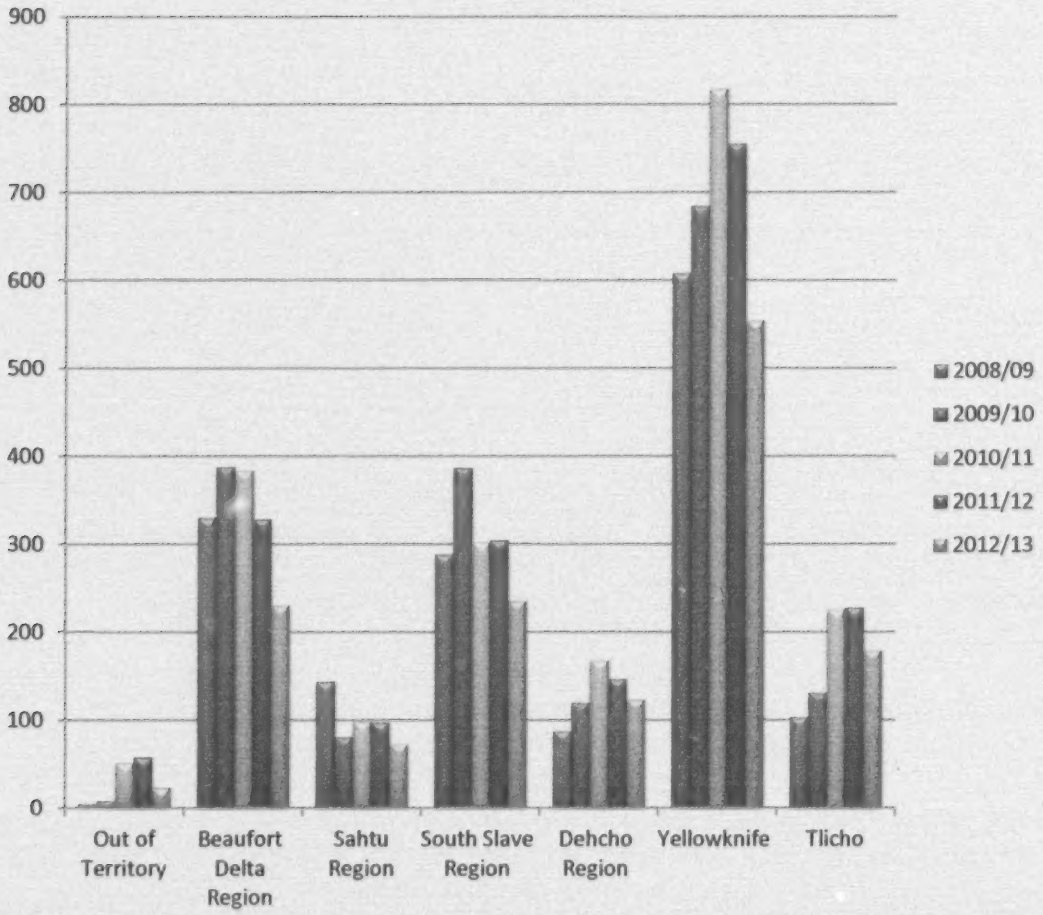
Financial Report 2012/13

	Actual Expense	2012/13 Main Estimate	Year Variance
Legal Services Board Administration			
Staff Wages and Benefits	665,814	568,000	(97,814)
Operations & Maintenance Expenses	45,323	38,000	(7,323)
Public Education	15,727		(15,727)
Total Administration	726,864	606,000	(120,864)
Court Workers			
Staff Wages and Benefits	746,271	1,051,000	304,729
Operations & Maintenance Expenses	36,397	20,000	(16,397)
Travel	95,371	64,000	(31,371)
Total Court Workers	878,039	1,135,000	256,961
Legal Aid Staff Lawyers			
Staff Wages & Benefits	2,008,976	2,228,000	219,024
Operations, Maintenance	165,507	111,000	(54,507)
Total Legal Aid Staff Lawyers	2,174,483	2,339,000	164,517
Legal Services Board			
Board Expenses	18,194		(18,194)
	18,194		(18,194)
Legal Aid Fees & Disbursements			
Legal Aid Fees/Disbursements	1,102,630	1,619,000	516,370
Travel and Transportation (includes staff lawyers)	362,882	236,000	(126,882)
Total Legal Aid Fees & Disbursements	1,465,512	1,855,000	389,488
TOTAL	5,263,092	5,935,000	671,908

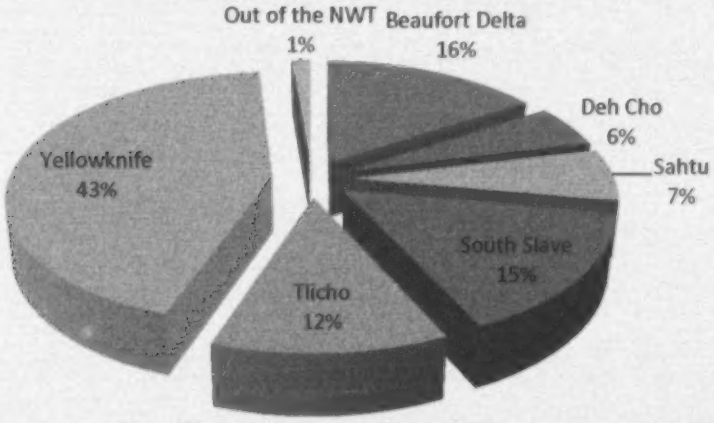
STATISTICAL REPORTS FOR 2012/13

Number of Applications Received

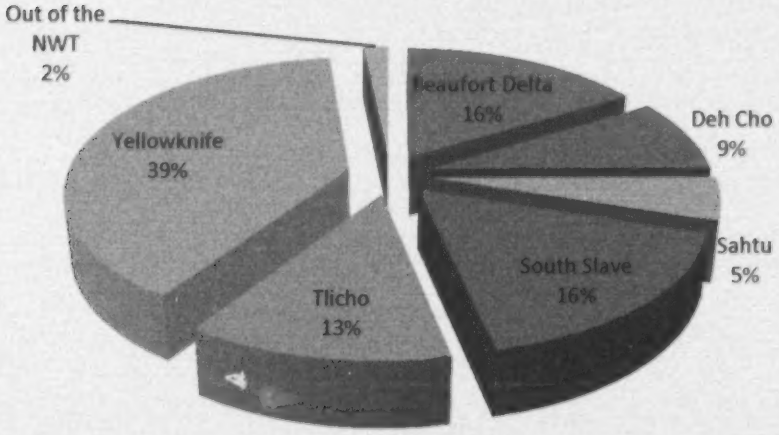
	2008/09	2009/10	2010/11	2011/12	2012/13
Out of the NWT	5	8	52	58	24
Beaufort Delta Region	331	388	384	329	231
Sahtu Region	144	81	99	98	73
South Slave Region	289	387	303	305	236
Dehcho Region	88	120	168	147	124
Yellowknife	609	685	818	756	555
Tlicho	104	131	226	228	180
Total	**1570**	**1800**	**2050**	**1921**	**1423**



Family Applications 2012/13

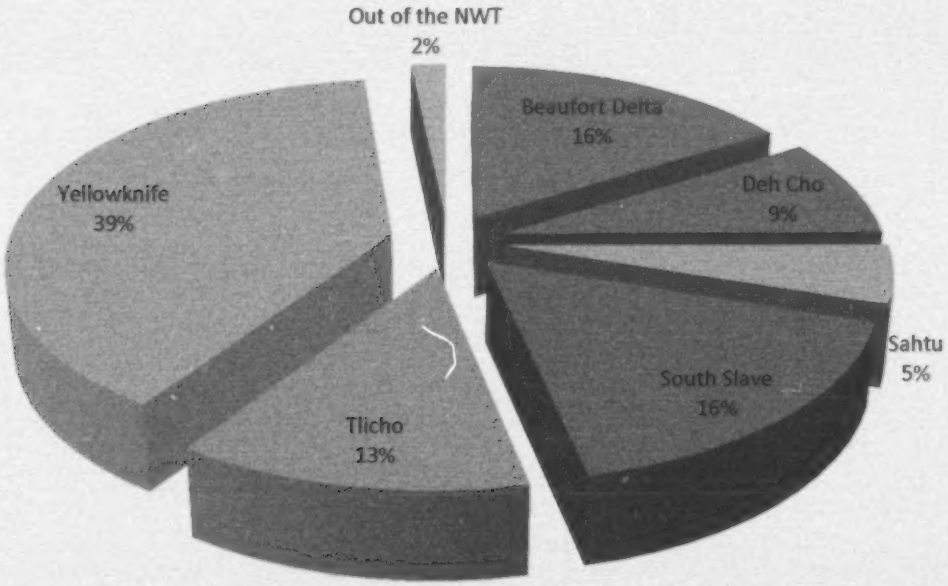


Criminal Applications 2012/13



By Regions	Criminal Applications	Family/Civil Applications
Beaufort Delta	137	94
Deh Cho	91	33
Sahtu	33	40
South Slave	145	91
Tlicho	108	72
Yellowknife & Area	295	260
Out of the NWT	16	8
Total	**825**	**598**

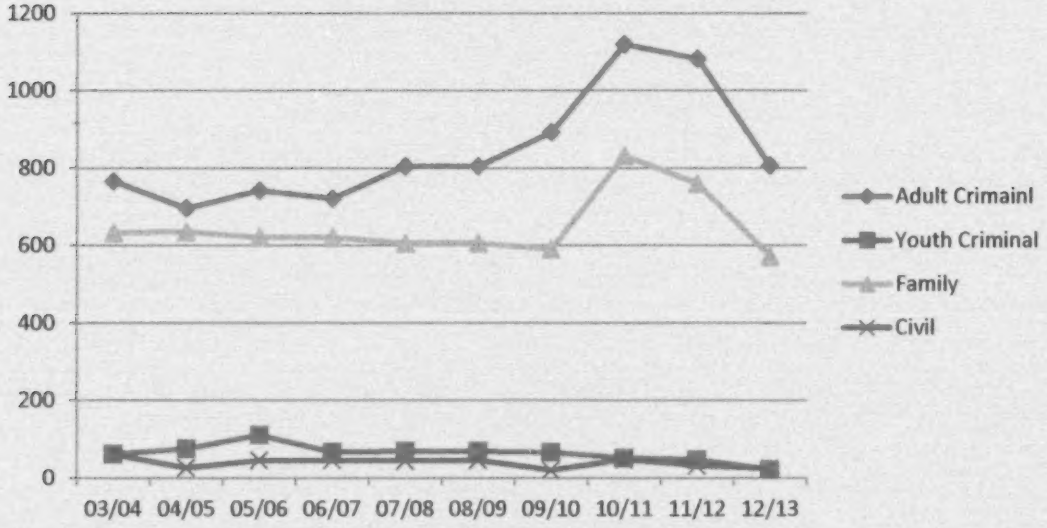
Origin of Application for 2012/13



Origin of Application for 2012/13	
Beaufort Delta	231
Deh Cho	124
Sahtu	73
South Slave	236
Tlicho	180
Yellowknife	555
Out of the NWT**	24
Total	**1423**

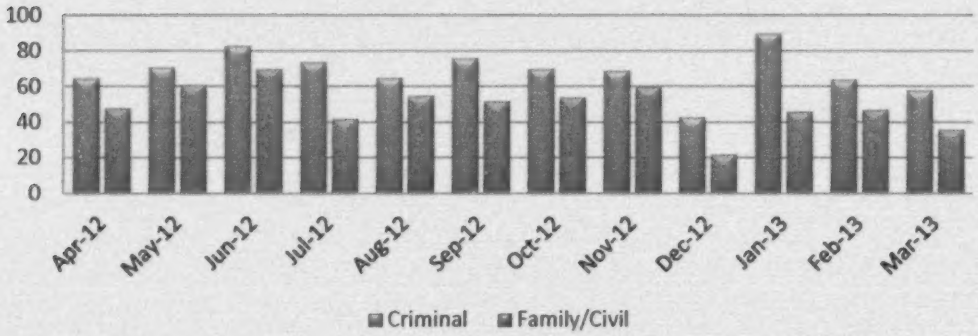
** Out of NWT Includes: 3 Criminal Appeal, 12 other Criminal matters, 1 Youth Criminal matter and 8 Family/Civil matters.

Number of Applications Received by Case Type Fiscal years 2003/04 to 2012/13

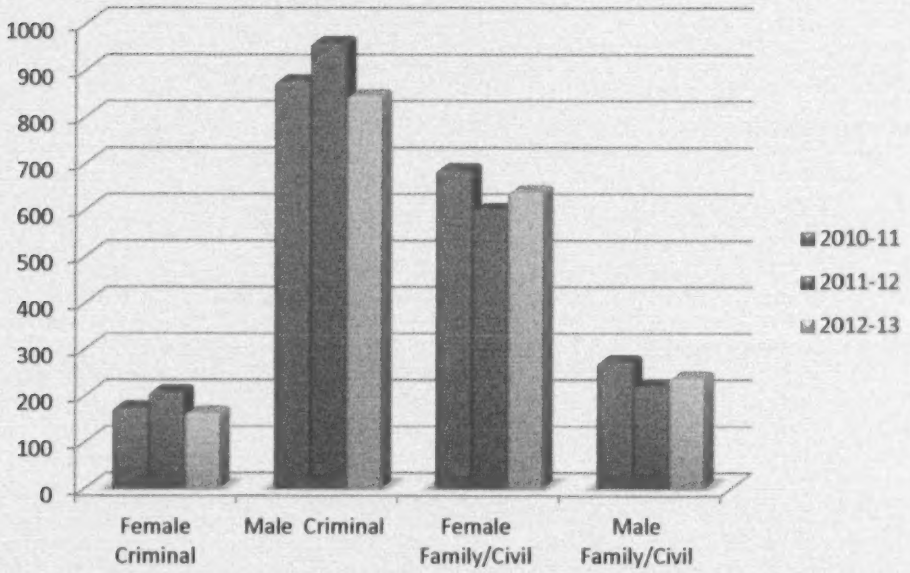


	03/04	04/05	05/06	06/07	07/08	08/09	09/10	10/11	11/12	12/13
Adult Criminal	766	696	742	721	804	892	1108	1119	1082	805
Youth Criminal	62	75	111	67	69	66	48	52	47	22
Family	633	636	621	621	606	591	595	832	760	572
Civil	61	26	45	46	44	20	34	47	32	24
Total	**1522**	**1433**	**1519**	**1455**	**1523**	**1569**	**1785**	**2050**	**1921**	**1423**

Applications received Monthly Fiscal Year 2012/13



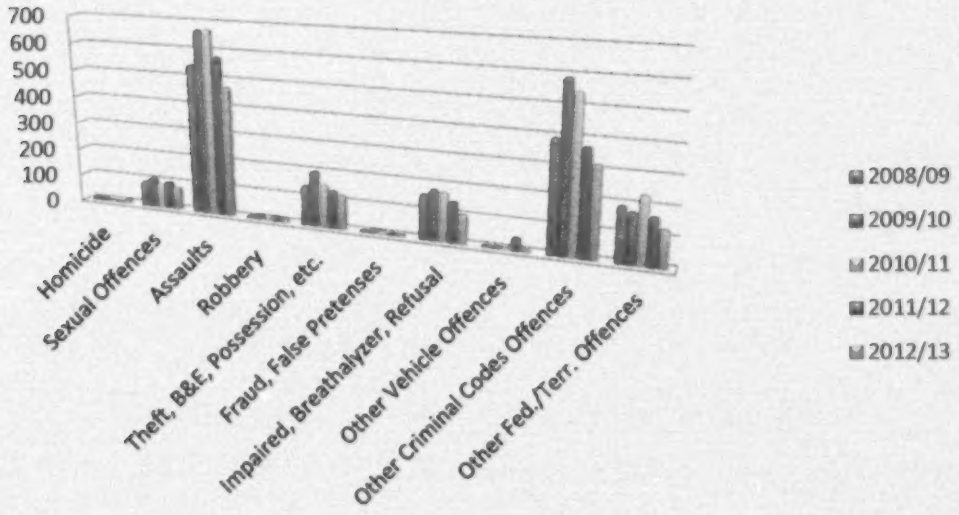
Legal Aid Approval by Case Type and Gender



	2010-11	2011-12	2012-13
Female - Criminal	175	209	164
Male - Criminal	877	960	846
Female - Family/Civil	687	601	639
Male - Family/Civil	273	220	239
	2012	1990	1888**

**Numbers can be higher than applications received as one case can include multiple approvals when it is transferred to new counsel on the next circuit.

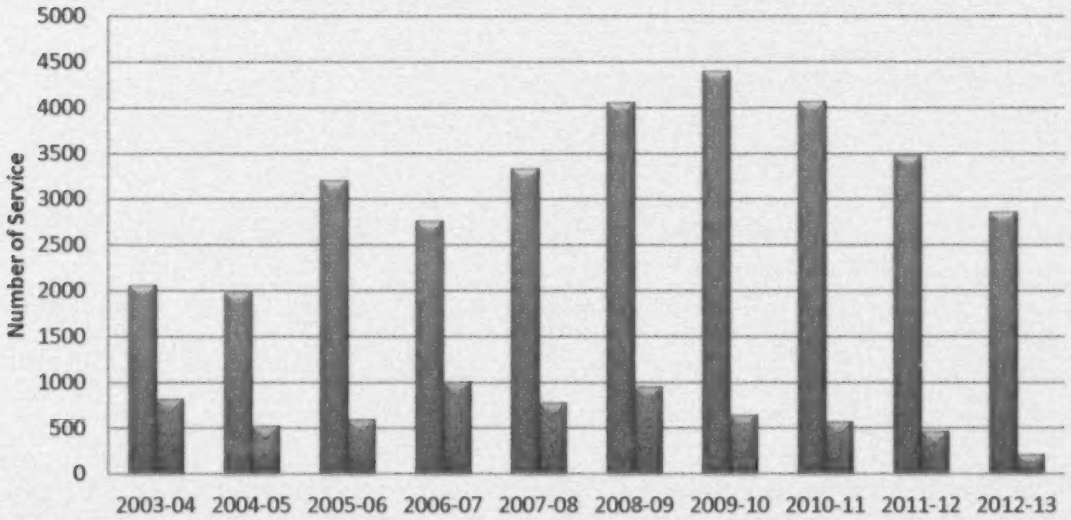
BRYDGES SERVICES NUMBER OF CALLS BY TYPE OR MATTER/ADULT/YOUNG OFFENDER



Phone calls made by detained persons who wish to exercise their right to legal advice upon arrest.

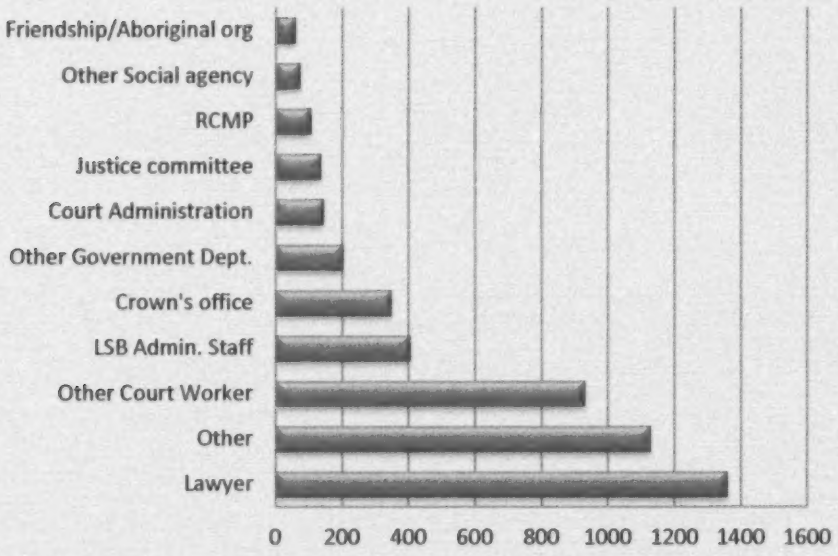
	2008/09	2009/10	2010/11	2011/12	2012/13
Homicide	10	10	3	0	13
Sexual Offences	94	111	89	101	84
Assaults	545	670	675	579	473
Robbery	8	14	6	14	12
Theft, B&E, Possession, etc.	146	200	157	137	124
Fraud, False Pretenses	4	10	10	7	6
Impaired, Breathalyzer, Refusal	161	180	176	146	106
Other Vehicle Offences	6	6	7	46	8
Other *Criminal Code* Offences	395	590	549	374	321
Other Fed./Terr. Offences	194	177	237	168	132
Yearly Totals	**1563**	**1968**	**1909**	**1572**	**1279**

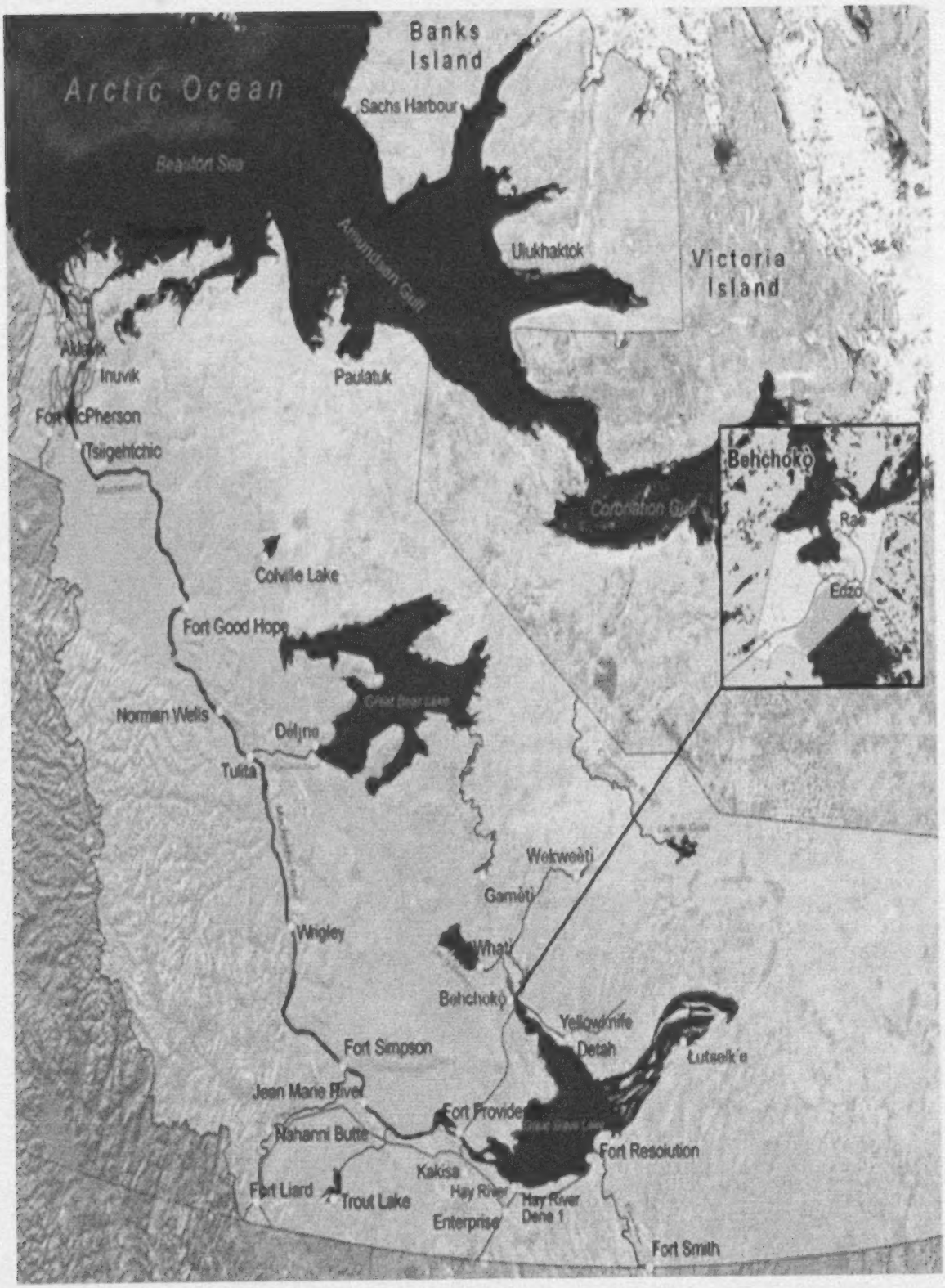
Presumed Eligibility Statistics



	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
Adult	2070	1998	3216	2775	3346	4067	4409	4081	3491	2871
Youth	825	532	604	1013	788	962	651	580	475	221
Total	**2895**	**2530**	**3820**	**3788**	**4134**	**5029**	**5060**	**4661**	**3966**	**3092**

Court Worker Community Referrals for 2012/13




Arctic Ocean
Beaufort Sea
Banks Island
Sachs Harbour
Amundsen Gulf
Ulukhaktok
Victoria Island
Aklavik
Inuvik
Paulatuk
Fort McPherson
Tsiigehtchic
Coronation Gulf
Behchokǫ̀
Rae
Edzo
Colville Lake
Fort Good Hope
Great Bear Lake
Norman Wells
Déljne
Tulita
Wekweètì
Gamèti
Wrigley
Whatì
Behchokǫ̀
Yellowknife
Detah
Łutsel k'e
Fort Simpson
Jean Marie River
Fort Providence
Great Slave Lake
Nahanni Butte
Fort Resolution
Kakisa
Fort Liard
Trout Lake
Hay River
Enterprise
Hay River Dene 1
Fort Smith

OFFICE LOCATIONS AND CONTACT NUMBERS

Legal Services Board of the NWT
4915 48th Street 3rd Floor, YK Centre East
P.O Box 1320
Yellowknife NT X1A 2L9
Tel: (867) 873-7450
Fax: (867) 873-5320

LEGAL AID CLINICS

Beaufort Delta Legal Aid Clinic
2nd 151 MacKenzie Road
P.O. Box 1100
Inuvik NT X0E 0TO
Tel: (867) 777-2030
Fax: (867) 777-3211

Community Legal Aid Clinic
8, 4915 – 48th Street
3rd Floor, YK Centre East
Yellowknife, NT X1A 3R7
Tel: (867) 920 3365
Fax: (867) 873 0652

Somba K'e Legal Aid Clinic
5, 4915 – 48th Street
2nd Floor, YK Centre East
Yellowknife, NT X1A 3R7
Tel: (867) 873-7964
Fax: (867) 920-6270

Yellowknife Legal Aid Clinic
 # 4, 4915 – 48TH Street
3rd Floor, YK Centre East
P.O Box 11028
Yellowknife NT X1A 3X7
Tel: (867) 920-6108
Fax: (967) 873-0526

COURTWORKERS

Beaufort Delta Region
P.O. Box 1100
Inuvik NT X0E 0T0
Tel: (867) 777-2030
Fax: (867) 777-3211

Deh Cho Region
P.O. Box 178
Fort Simpson NT X0E 0R0
Tel: (867) 695-7315
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